

1-1 By: Fraser S.B. No. 818  
1-2 (In the Senate - Filed March 3, 2003; March 10, 2003, read  
1-3 first time and referred to Committee on Business and Commerce;  
1-4 April 2, 2003, reported favorably by the following vote: Yeas 8,  
1-5 Nays 0; April 2, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the regulation of certain occupations by the Texas Real  
1-9 Estate Commission.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subsection (a), Section 1101.152, Occupations  
1-12 Code, is reenacted to conform to Section 5, Chapter 997, Acts of the  
1-13 77th Legislature, Regular Session, 2001, and amended to read as  
1-14 follows:

1-15 (a) The commission shall charge and collect the following  
1-16 fees:

1-17 (1) for filing an original application for a broker  
1-18 license, not more than \$100;

1-19 (2) for annual renewal of a broker license, not more  
1-20 than \$100;

1-21 (3) for filing an original application for a  
1-22 salesperson license, not more than \$75 [~~\$50~~];

1-23 (4) for annual renewal of a salesperson license, not  
1-24 more than \$50;

1-25 (5) for annual registration, \$80;

1-26 (6) for an application for a license examination, not  
1-27 more than \$100;

1-28 (7) for filing a request for a branch office license,  
1-29 not more than \$20;

1-30 (8) for filing a request for a change of place of  
1-31 business, change of name, return to active status, or change of  
1-32 sponsoring broker, not more than \$20;

1-33 (9) for filing a request to replace a lost or destroyed  
1-34 license or certificate of registration, not more than \$20;

1-35 (10) for filing an application for approval of an  
1-36 education program under Subchapter G, not more than \$400;

1-37 (11) for annual operation of an education program  
1-38 under Subchapter G, not more than \$200;

1-39 (12) for filing an application for approval of an  
1-40 instructor of core real estate courses, not more than \$40;

1-41 (13) for transcript evaluation, \$20;

1-42 (14) [~~(13)~~] for preparing a license or registration  
1-43 history, not more than \$20 [~~\$10~~]; and

1-44 (15) [~~(14)~~] for filing an application for a moral  
1-45 character determination, not more than \$50.

1-46 SECTION 2. Section 1101.152, Occupations Code, is amended  
1-47 by amending Subsection (b) and adding Subsection (c) to read as  
1-48 follows:

1-49 (b) The commission may set and collect reasonable fees to  
1-50 implement the continuing education requirements for license  
1-51 holders, including the following fees:

1-52 (1) for an application for approval of a continuing  
1-53 education provider, not more than \$400; [~~and~~]

1-54 (2) for an application for approval of a continuing  
1-55 education course of study, not more than \$100; and

1-56 (3) for an application for approval of an instructor  
1-57 of continuing education courses, not more than \$40.

1-58 (c) Notwithstanding Subsection (a), if the commission  
1-59 issues an original inactive salesperson license under Section  
1-60 1101.363(b) to a salesperson who is not sponsored by a licensed  
1-61 broker and the salesperson is subsequently sponsored by a licensed  
1-62 broker, the commission may not charge:

1-63 (1) the salesperson a fee for filing a request to place  
1-64 the salesperson license on active status; or

2-1 (2) the broker a fee for filing a request to sponsor  
 2-2 the salesperson.

2-3 SECTION 3. Subsection (a), Section 1101.202, Occupations  
 2-4 Code, is amended to read as follows:

2-5 (a) The commission by rule shall establish methods by which  
 2-6 consumers and service recipients are notified of the name, mailing  
 2-7 address, and telephone number of the commission for the purpose of  
 2-8 directing a complaint to the commission. The commission may  
 2-9 provide for that notice:

2-10 (1) on each application for a license or certificate  
 2-11 of registration or written contract for services of a person  
 2-12 regulated under this chapter or Chapter 1102;

2-13 (2) on a sign prominently displayed in the place of  
 2-14 business of each person regulated under this chapter or Chapter  
 2-15 1102;

2-16 (3) in a bill for services provided by a person  
 2-17 regulated under this chapter or Chapter 1102; ~~[or]~~

2-18 (4) in conjunction with the notice required by Section  
 2-19 1101.615; or

2-20 (5) to be prominently displayed on the Internet  
 2-21 website of a person regulated under this chapter or Chapter 1102.

2-22 SECTION 4. Section 1101.352, Occupations Code, is amended  
 2-23 to conform to Section 1, Chapter 997, Acts of the 77th Legislature,  
 2-24 Regular Session, 2001, to read as follows:

2-25 Sec. 1101.352. LICENSE APPLICATION. (a) Each applicant  
 2-26 for a broker or salesperson license must submit an application on a  
 2-27 form prescribed by the commission.

2-28 ~~(b) [A broker who intends to associate with an applicant for~~  
 2-29 ~~a salesperson license must join the applicant in filing the~~  
 2-30 ~~application.~~

2-31 ~~[(c)]~~ Each applicant for a broker or salesperson license  
 2-32 must disclose in the license application whether the applicant has:

2-33 (1) entered a plea of guilty or nolo contendere to a  
 2-34 felony; or

2-35 (2) been convicted of a felony and the time for appeal  
 2-36 has elapsed or the judgment or conviction has been affirmed on  
 2-37 appeal.

2-38 (c) ~~[(d)]~~ The disclosure under Subsection (b) ~~[(c)]~~ must be  
 2-39 provided even if an order has granted community supervision  
 2-40 suspending the imposition of the sentence.

2-41 SECTION 5. Section 1101.363, Occupations Code, is amended  
 2-42 by adding a new Subsection (b) and relettering existing Subsection  
 2-43 (b) as Subsection (c) to conform to Section 1, Chapter 997, Acts of  
 2-44 the 77th Legislature, Regular Session, 2001, and is further amended  
 2-45 to read as follows:

2-46 (b) The commission may issue an inactive salesperson  
 2-47 license to a person who applies for a salesperson license and  
 2-48 satisfies all requirements for the license. The person may not act  
 2-49 as a salesperson unless the person is sponsored by a licensed broker  
 2-50 who has notified the commission as required by Section 1101.367(b).  
 2-51 Notwithstanding Section 1101.367(b), the licensed broker is not  
 2-52 required to pay the fee required by that subsection.

2-53 (c) A license remains in effect for the period prescribed by  
 2-54 the commission if the license holder complies with this chapter and  
 2-55 pays the appropriate renewal fees.

2-56 SECTION 6. Section 1101.367, Occupations Code, is amended  
 2-57 to conform to Section 1, Chapter 997, Acts of the 77th Legislature,  
 2-58 Regular Session, 2001, to read as follows:

2-59 Sec. 1101.367. INACTIVE LICENSE: SALESPERSON. (a) ~~[The~~  
 2-60 ~~commission may place on inactive status the license of a person who~~  
 2-61 ~~was previously licensed as a salesperson if the person applies for~~  
 2-62 ~~inactive status on a form prescribed by the commission not later~~  
 2-63 ~~than the first anniversary of the expiration date of the license.~~  
 2-64 ~~An application under this subsection does not require the~~  
 2-65 ~~participation of a broker.~~

2-66 ~~[(b)]~~ When the association of a salesperson with the  
 2-67 salesperson's sponsoring broker terminates, the broker shall  
 2-68 immediately return the salesperson license to the commission. A  
 2-69 salesperson license returned under this subsection is inactive.

3-1           (b) [~~(c)~~] The commission may remove a salesperson license  
 3-2 from inactive status under Subsection (a) [~~(b)~~] if, before the  
 3-3 expiration date of the salesperson license, a licensed broker files  
 3-4 a request with the commission advising the commission that the  
 3-5 broker assumes sponsorship of the salesperson, accompanied by the  
 3-6 appropriate fee.

3-7           (c) [~~(d)~~] As a condition of returning to active status, an  
 3-8 inactive salesperson whose license is not subject to the annual  
 3-9 education requirements of Section 1101.454 must provide to the  
 3-10 commission proof of attending at least 15 hours of continuing  
 3-11 education as specified by Section 1101.455 during the two years  
 3-12 preceding the date the application to return to active status is  
 3-13 filed.

3-14           SECTION 7. Subsections (a) and (c), Section 1101.558,  
 3-15 Occupations Code, are amended to read as follows:

3-16           (a) In this section, "substantive dialogue" [~~"face-to-face~~  
 3-17 ~~meeting"~~] means a meeting or written communication that involves  
 3-18 [~~at which~~] a substantive discussion [~~occurs~~] relating to specific  
 3-19 real property. The term does not include [~~a meeting that occurs~~]:

3-20           (1) a meeting that occurs at a property that is held  
 3-21 open for any prospective buyer or tenant; or

3-22           (2) a meeting or written communication that occurs  
 3-23 after the parties to a real estate transaction have signed a  
 3-24 contract to sell, buy, or lease the real property concerned.

3-25           (c) A license holder shall provide to a party to a real  
 3-26 estate transaction at the time of the first substantive dialogue  
 3-27 [~~face-to-face meeting~~] with the party the written statement  
 3-28 prescribed by Subsection (d) unless:

3-29           (1) the proposed transaction is for a residential  
 3-30 lease for not more than one year and a sale is not being considered;  
 3-31 or

3-32           (2) the license holder meets with a party who is  
 3-33 represented by another license holder.

3-34           SECTION 8. Subsection (a), Section 1101.615, Occupations  
 3-35 Code, is amended to read as follows:

3-36           (a) Each license and certificate holder shall provide  
 3-37 notice to consumers and service recipients of the availability of  
 3-38 payment from the trust account for aggrieved persons:

3-39           (1) in conjunction with the notice required by Section  
 3-40 1101.202;

3-41           (2) on a written contract for the license or  
 3-42 certificate holder's services;

3-43           (3) on a brochure that the license or certificate  
 3-44 holder distributes;

3-45           (4) on a sign prominently displayed in the license or  
 3-46 certificate holder's place of business; [~~or~~]

3-47           (5) in a bill or receipt for the license or certificate  
 3-48 holder's services; or

3-49           (6) in a prominent display on the Internet website of a  
 3-50 person regulated under this chapter.

3-51           SECTION 9. Subsection (d), Section 1101.657, Occupations  
 3-52 Code, is amended to read as follows:

3-53           (d) This subsection applies only to a hearing relating to a  
 3-54 proposal to suspend or revoke a person's license or certificate of  
 3-55 registration for a violation of Section 1101.652(a)(3) or (b). The  
 3-56 hearing shall be held, if the license holder requests, in the county  
 3-57 in which the principal place of business of the license holder is  
 3-58 located, or, if the license holder is not a resident, the hearing  
 3-59 may be held in any county in this state.

3-60           SECTION 10. Section 1102.109, Occupations Code, is amended  
 3-61 to read as follows:

3-62           Sec. 1102.109. ELIGIBILITY FOR PROFESSIONAL INSPECTOR  
 3-63 LICENSE. To be eligible for a professional inspector license, an  
 3-64 applicant must:

3-65           (1) at the time of application have:

3-66           (A) held a real estate inspector license for at  
 3-67 least 12 months; and

3-68           (B) performed at least 175 real estate  
 3-69 inspections under indirect supervision;

4-1 (2) submit evidence satisfactory to the commission of  
4-2 successful completion of at least 30 classroom hours of core real  
4-3 estate inspection courses, in addition to the hours required by  
4-4 Section 1102.108, and at least eight classroom hours related to the  
4-5 study of standards of practice, legal issues, or ethics related to  
4-6 the practice of real estate inspecting; ~~and~~

4-7 (3) demonstrate competence based on the examination  
4-8 under Subchapter D; and

4-9 (4) satisfy the commission as to the applicant's  
4-10 honesty, trustworthiness, integrity, and competence.

4-11 SECTION 11. Subsection (b), Section 1102.111, Occupations  
4-12 Code, is amended to read as follows:

4-13 (b) Rules adopted under Subsection (a) may not require an  
4-14 applicant to complete more than 320 ~~60~~ additional classroom hours  
4-15 of core real estate inspection courses.

4-16 SECTION 12. Section 1102.201, Occupations Code, is amended  
4-17 to read as follows:

4-18 Sec. 1102.201. LICENSE TERM AND EXPIRATION. (a) The  
4-19 commission may issue or renew a license for a period not to exceed  
4-20 24 months.

4-21 (b) A renewal fee for a license [issued] under this chapter  
4-22 may not exceed, calculated on an annual basis, the amount of the fee  
4-23 established under Section 1102.251. [expires on the first  
4-24 anniversary of the date of issuance.]

4-25 SECTION 13. Subsection (a), Section 1102.364, Occupations  
4-26 Code, is amended to read as follows:

4-27 (a) Each inspector shall provide notice to consumers and  
4-28 service recipients of the availability of payment from the fund for  
4-29 aggrieved persons:

4-30 (1) on a written contract for the inspector's  
4-31 services;

4-32 (2) on a brochure that the inspector distributes;

4-33 (3) on a sign prominently displayed in the inspector's  
4-34 place of business; ~~or~~

4-35 (4) in a bill or receipt for the inspector's services;  
4-36 or

4-37 (5) in a prominent display on the Internet website of a  
4-38 person regulated under this chapter.

4-39 SECTION 14. Subsections (a) and (b), Section 1101.553,  
4-40 Occupations Code, are repealed.

4-41 SECTION 15. This Act takes effect September 1, 2003.

4-42 \* \* \* \* \*